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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,357	10/14/2003	Michele Nahaniel	14657	4389

7590

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MICHELE NATHANIEL  
6027 HAZELHURST STREET  
PHILA, PA 19151

EXAMINER

DOAN, ROBYN KIEU

ART UNIT

PAPER NUMBER

3732

DATE MAILED: 07/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/685,357	<b>Applicant(s)</b> NAHANIEL, MICHELE	
	<b>Examiner</b> Robyn Doan	<b>Art Unit</b> 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10/14/03.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/14/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winckels (20050039768) in view of Pellecchia (IDS cited reference).

With regard to claims 1-2, Winckels discloses a hair clip (fig. 6) for isolating a lock of hair comprising a first jaw member (131) and a second jaw member (130) wherein the jaw members are pivotally attached to one another in proximity to their first ends by a hinge (132), a hair shield (110, 120) extending perpendicularly from upper surfaces of each jaw member, each shield having an internally surface and an externally surface and being substantially flat and rectangular (fig. 6), the internally oriented surfaces of the hair shields being pressed substantially flush against one another when the jaw members in closed position. Winckels does not disclose a coiled spring in proximity to the first ends of the jaw members, however, Pellecchia discloses a hair dressing device (fig. 1) comprising a clip having a pair of jaws (11, 12), a coiled spring (13) in proximity to the first ends of the jaw members to bias the jaw members toward the closed position, the clip further having a pair of handles (15, 15'). It would

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have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the coiled spring member as taught by Pellecchia into the clip of Winckels for the purpose of biasing the two jaw members. In regard to claim 11, Winckels in view of Pellecchia are capable to perform the claimed method steps.

Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winckels in view of Pellecchia as applied to claim 1 above, and further in view of Grssi et al.

With regard to claims 3-5, Winckels in view of Pellecchia disclose a hair clip comprising all the claimed limitations in claim 2 as discussed above except for each of the jaw member having a plurality of teeth extending perpendicularly outward from its internally oriented surface and the each of the jaw members also having a beveled grip at its first ends. Grassi et al discloses a hair clip (fig. 5) comprising a pair of jaw members (1, 2) each having a plurality of teeth (17, 26) extending perpendicularly outward from its internally surface, wherein the teeth of the first jaw member selectively interlock with the teeth of the second jaw member in closed position. The clip also having a beveled grip (10, 11) at each end of the jaw member. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the plurality of teeth and beveled grips as taught by Grassi et al into the clip of Winckels in view of Pellecchia for the purpose of strengthening the hold of the jaw members onto the user's hair.

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Claims 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winckels in view of Pellecchia and further in view of Grassi et al as applied to claim 5 above, and further in view of La Fauci (20040065341).

With regard to claims 6-10, Winckels in view of Pellecchia and further in view of Grassi et al disclose a hair clip comprising all the claimed limitations in claim 5 as discussed above except for portions of the clip being lined with a soft polystyrene material, the beveled grips being made of rubber material, the jaws member being substantially rectangular and being constructed from stainless steel, plastic. La Fauci discloses a hair clip comprising a pair of jaw members (12), inner portions of the jaws being lined with a soft rubber material; the clip further having a rubber beveled grips (16) at each end of the jaw. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the soft line material as taught by La Fauci into the hair clip of Winckels in view of Pellecchia further in view of Grassi et al for the purpose of preventing damage to the hair. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the soft polysterene material and the stainless steel or plastic jaw members, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. It would also have been obvious to one having an ordinary skill in the art at the time the invention was made to construct the jaw members being rectangular, since such a modification would have involved a mere change in the shape of the component.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sullivan, Butler, Altman are cited to show the state of the art with respect to the hair clip.

The drawings filed 10/14/03 have been approved by the Examiner.

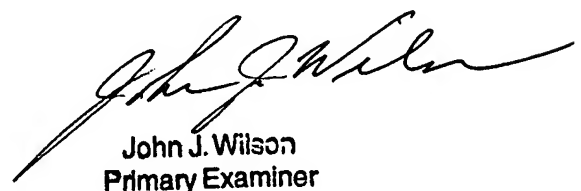
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robyn Doan whose telephone number is (571) 272-4711. The examiner can normally be reached on Mon-Fri 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robyn Doan  
July 5, 2005



John J. Wilson  
Primary Examiner